

REMARKS

In the Office Action mailed May 07, 2009, the Office Action Objected to the drawings, the specification, rejected claims 1-51 under 35 U.S.C. § 112, and rejected claims 1-49 as being anticipated by EP0073535. The Office Action also rejected claims 50-51 as being indefinite under 35 U.S.C. § 112 for failing to point out what is included or excluded by the claim language. Applicant has cancelled claims 50-51. Applicant has also amended claims 1-49 highlighting the elements of the present invention. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

EXAMINER TELEPHONE INTERVIEW

Applicants would like to thank Examiner Timothy Simone for the time and courtesy extended to Applicants' Representative Daniel Aleksynas during a telephonic interview conducted on July 21, 2009. In that interview, the current 35 U.S.C. § 112 rejection was discussed. In view of the discussion during the interview discussion of "mould" was added and Examiner indicated that this discussion would appear to overcome the 35 U.S.C. § 112 rejection.

DRAWINGS

The Office Action objected to the drawings stating that not all reference characters in the drawings were located in the detailed description portion of the specification or that the reference characters mentioned in the specification were not included in the appropriate drawing figures as required by 37 C.F.R. 1.84(p)(5). Applicant has amended the drawings so that all of the reference characters mentioned in the specification are listed in the drawings and vice versa. Specifically, reference numbers 11 and 4 have been removed from Figure 1A, and replaced with 29 and 3 respectively; reference numbers 103a and 103b are now listed as 103 in Figure 6A and 6C; and reference number 125 has been removed from Figure 6D. No new matter has been added and support for these changes can be found in Paragraphs 0063 – 0064 and Figure 3A of U.S. Application Publication No. 2007/0272089. Applicant respectfully requests that the Examiner accept the revised drawings.

SPECIFICATION

The Office Action objected to the specification for not containing the proper section headings. The specification is amended herewith and it is believed that these amendments render the objection moot. Applicant respectfully requests that the objection is withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

The Office Action rejected claims 1-51 under 35 U.S.C. § 112. Applicant notes that a skilled artisan would recognize use of the word "*mould*" given the teachings in the specification and the origin of this Application. Applicant respectfully request that the rejections are withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

It is well settled that a claim is invalid as anticipated under 35 U.S.C. § 102 only if "a single prior art reference discloses either expressly or inherently, each limitation of the claim." *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 64 U.S.P.Q.2d 1202 (Fed. Cir. 2002).

The Office Action dated May 7, 2009, failed to present a proper prima facie rejection of claims 1-49 because the Office Action failed to present evidence that EP0073535 teaches expressly or inherently every limitation of the claims. For example, in claim 1 the Office Action fails to show where EP0073535 teaches the following limitations of claim 1: "lollipop moulds," "a supply for supplying a strand of lollipop material to the lollipop moulds," "a discharge for lollipops formed in the lollipop moulds," "wherein the drum is disposed on a hollow shaft," "wherein the lollipop moulds are disposed at the circumference of a casing, which defines an annular space with the hollow shaft," "wherein the lollipop moulds for instance comprise lower moulds that are solid with the casing and upper moulds that are hinged to the lower moulds." Accordingly, the Office Action failed to show where EP0073535 teaches elements in claims 2-49 as well.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment,

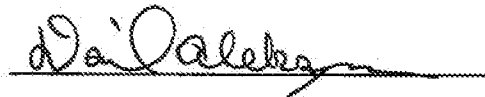
as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

CONCLUSIONS

In view of Applicant's remarks, the Examiner's previously presented rejections are believed to be rendered moot. Accordingly, Applicant submits that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

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